

Designation Run Report

Brantley, Eric - Plaintiff and Defense Combined Submission

Brantley, Eric 11-27-2018

Plaintiffs Affirmative Designations 00:22:25

Defense Counter Designations 00:37:01

Defense Completeness Counters 00:01:17

Total Time 01:00:43



EB04-Brantley, Eric - Plaintiff and Defense Combined Submission

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15:20 - 15:21	Brantley, Eric 11-27-2018 (00:00:03) 15:20 Q. Sir, state your name, please. 15:21 A. Eric Brantley.	EB04.1
18:15 - 18:24	Brantley, Eric 11-27-2018 (00:00:33) 18:15 Q. Sir, you -- you were a -- you were in 18:16 charge of regulatory -- regulatory is one of your 18:17 responsibilities with Cardinal; is that correct? 18:18 A. I worked in the quality and regulatory 18:19 affairs department. 18:20 Q. And -- and with you was a fellow named 18:21 Reardon; is that right? 18:22 A. Steve Reardon was my boss. 18:23 Q. And how many years was he your boss? 18:24 A. I would say 2005 to 2008, maybe.	EB04.2
18:25 - 19:7	Brantley, Eric 11-27-2018 (00:00:18) 18:25 Q. And did you have a system when you worked 19:1 with Mr. Reardon where you would actually -- you'd 19:2 have a suspicious order that you would have in-house, 19:3 and then you would ship the product, even after being 19:4 notified that it might be suspicious? 19:5 Do you recall ever doing that, 19:6 Mr. Brantley? 19:7 A. No.	EB04.3
19:8 - 20:1	Brantley, Eric 11-27-2018 (00:00:46) 19:8 Q. Okay. And do you have any idea that the 19:9 company was carrying on a monitoring system where 19:10 they would identify and report potentially suspicious 19:11 excessive purchases of controlled substances after 19:12 the substances were shipped? 19:13 Had anybody ever told you that that was 19:14 going on with Cardinal? 19:15 A. We had ingredient limit reports that 19:16 were -- that were ran every month and submitted to 19:17 the DEA. And those ingredient limit reports were the 19:18 potentially suspicious orders -- 19:19 Q. Okay -- 19:20 A. -- and I reviewed those reports. 19:21 Q. Yeah, you reviewed them, and after you 19:22 reviewed them, you would ship anyway; is that 19:23 correct?	EB04.4

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20:2 - 21:8

19:24 A. I would review the reports, and I would
 19:25 conduct investigations of any downstream -- any
 20:1 pharmacies that I needed to investigate.

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EB04.5

20:2 Q. And --

20:3 A. And I would conduct a site visit of those
 20:4 pharmacies.

20:5 Q. And my question is, sir, there were times
 20:6 when you, Brantley, saw suspicious orders and decided
 20:7 to ship the orders anyway. That's a yes-or-no
 20:8 question.

20:9 A. That is incorrect.

20:10 Q. Okay. So what -- what system did you use
 20:11 before you would ship?

20:12 A. My job was to review the ingredient limit
 20:13 reports on a monthly basis, and if I noticed any
 20:14 pharmacies that I wanted to further investigate, I
 20:15 would contact those pharmacies and I would conduct a
 20:16 site visit. If those pharmacies were deemed
 20:17 suspicious, they were shut off from controlled
 20:18 substances, and they were reported to -- to Kyle
 20:19 Wright at the DEA.

20:20 Q. And so --

20:21 A. That was my job.

20:22 Q. That was your job?

20:23 A. Yes.

20:24 Q. And you feel like you carried your job out
 20:25 appropriately?

21:1 A. Yes.

21:2 Q. Were you there -- what were the years that
 21:3 you were in charge of that job?

21:4 A. I was never in charge of the -- the job.
 21:5 But I was at the corporate office -- from 2005 till
 21:6 about 2008, I had responsibility for reviewing the
 21:7 ingredient limit reports and conducting
 21:8 investigations.

22:23 - 22:25

Brantley, Eric 11-27-2018 (00:00:03)

EB04.6

22:23 Q. Okay. So today -- and you're no longer
 22:24 with Cardinal; is that correct?

22:25 A. No, I'm not.

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24:3 - 24:4	Brantley, Eric 11-27-2018 (00:00:03) 24:3 MR. PAPANTONIO: Okay. Put up 24:4 document 4195.	EB04.7
24:5 - 24:8	Brantley, Eric 11-27-2018 (00:00:02) 24:5 MS. MOORE: This will be 24:6 Cardinal-Brantley 2. 24:7 (Cardinal-Brantley 2 was marked for 24:8 identification.)	EB04.8
24:21 - 27:3	Brantley, Eric 11-27-2018 (00:02:06) 24:21 Q. Who is -- who is Steve 24:22 Reardon? 24:23 A. Steve Reardon was my boss at the time. 24:24 Q. And you see your name on there -- you see, 24:25 Mr. Brantley, where it says "To Brantley"? 25:1 A. Yes. 25:2 Q. And who is McPherson? 25:3 A. I don't know what her position was at the 25:4 time, but she was in the quality and regulatory 25:5 affairs department, I believe. 25:6 Q. Do you recognize everybody on the -- on 25:7 the line where it says "To"? 25:8 A. No. 25:9 Q. Who don't you recognize? 25:10 A. Al M-o-h-n, Mohn, Mohn. 25:11 Q. You don't recognize Al Mohn; you never had 25:12 any contact with Al Mohn? 25:13 A. I don't remember that name. 25:14 Q. All right. Let's read this first 25:15 paragraph. 25:16 It says: "HDMA met with DEA officials 25:17 last Friday, September 7th, to discuss the agency's 25:18 current policy positions on suspicious orders." 25:19 Did you know that that meeting had taken 25:20 place? 25:21 A. No. 25:22 Q. Okay. And in your review before you came 25:23 in here today, did any -- did you -- you weren't 25:24 shown this document, I take it? 25:25 A. This particular -- 26:1 Q. Yes.	EB04.9

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26:2 A. -- e-mail?

26:3 Q. Right.

26:4 A. This is my first time seeing this e-mail.

26:5 Q. But it's got your name on it?

26:6 A. It does.

26:7 Q. Okay. And it says: "A summary

26:8 highlighting the key points made during the meeting

26:9 are attached for your review."

26:10 It says: "DEA is setting a new standard

26:11 with which we must comply. This is all coming about

26:12 as a result of the problem with Internet pharmacies

26:13 and controlled substance diversion."

26:14 Now, you -- you had some -- part of your

26:15 job was to be involved with Internet pharmacies,

26:16 wasn't it?

26:17 A. Part my job was to try to identify

26:18 potential Internet activity from the ingredient limit

26:19 reports and investigate, yes.

26:20 MR. PAPANTONIO: All right. So would you

26:21 underline "Internet pharmacies" for me there,

26:22 Evan?

26:23 BY MR. PAPANTONIO:

26:24 Q. And it says: "Controlled substance

26:25 diversion."

27:1 That was your job, wasn't it? To -- to be

27:2 involved with controlling the substance diversion of

27:3 narcotics, correct?

27:6 - 27:13 **Brantley, Eric 11-27-2018 (00:00:16)**

EB04.10

27:6 BY MR. PAPANTONIO:

27:7 Q. Is that true?

27:8 A. My job was to review ingredient limit

27:9 reports and search for pharmacies that needed further

27:10 investigation and shut those pharmacies off if deemed

27:11 necessary and report that to the DEA.

27:12 Q. And that's controlling substance abuse of

27:13 narcotics, true?

27:15 - 27:22 **Brantley, Eric 11-27-2018 (00:00:16)**

EB04.11

27:15 BY MR. PAPANTONIO:

27:16 Q. That's -- part of your goal was to stop

27:17 diversion of narcotics; yes or no?

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27:18	A. Part of our job was to help to prevent	
27:19	diversion through the -- potential Internet	
27:20	pharmacies, as well as the physical security in the	
27:21	distribution centers and the cage and the vault and	
27:22	everything else.	
28:21 - 29:1	Brantley, Eric 11-27-2018 (00:00:20)	EB04.12
28:21	Q. Okay. So now this goes on. It says:	
28:22	"Recently they suspended an ABC registration and used	
28:23	the suspension to get them to implement a complex and	
28:24	onerous suspicious order monitoring program that	
28:25	meets the requirement, meets the criteria spelled out	
29:1	in HDMA."	
36:7 - 36:17	Brantley, Eric 11-27-2018 (00:00:31)	EB04.13
36:7	So we picked up with -- "Recently they	
36:8	suspended an ABC registration and used the suspension	
36:9	to get them to implement a complex and onerous	
36:10	suspicious order monitoring."	
36:11	Would you underline "complex" and	
36:12	"onerous"? We're going to come back to those	
36:13	words.	
36:14	". . . complex and onerous suspicious	
36:15	order monitoring program that meets the criteria	
36:16	spelled out in the HDMA meeting summary."	
36:17	Tell the jury what the "HDMA" is.	
36:19 - 36:25	Brantley, Eric 11-27-2018 (00:00:16)	EB04.14
36:19	THE WITNESS: HDMA is a -- an agency	
36:20	comprised of pharmaceutical distributors.	
36:21	BY MR. PAPANTONIO:	
36:22	Q. And your company was part of the HDMA,	
36:23	true? Cardinal was part of the HDMA?	
36:24	A. Cardinal Health, I believe, was part of	
36:25	HDMA, yes.	
38:20 - 40:6	Brantley, Eric 11-27-2018 (00:01:27)	EB04.15
38:20	Then it goes on to say: "ABC presented	
38:21	their program at the DEA industry conference this	
38:22	week that I attended, and I have attached a copy of	
38:23	the presentation."	
38:24	Now, you see Steve Reardon sent that to	
38:25	you, didn't he?	
39:1	A. Yes.	

39:2 Q. All right. And he sent it back in 2007,
 39:3 true? September 2007, right?
 39:4 A. Yes.
 39:5 Q. And it says -- goes on to say,
 39:6 "Suspicious" -- let me read it. It says: "A complex
 39:7 and onerous" -- pick up from there:
 39:8 ". . . complex and onerous suspicious
 39:9 order monitoring program that meets the criteria
 39:10 spelled out by the HDMA meeting summary. ABC
 39:11 presented their program at the DEA industry
 39:12 conference this week."
 39:13 Were you there when they presented that?
 39:14 A. No, I was not.
 39:15 Q. And -- "And I attended, and I have a copy
 39:16 attached to the presentation."
 39:17 So you didn't attend, but Steve Reardon
 39:18 did, correct?
 39:19 A. Apparently. That's what he says, yes.
 39:20 Q. Yeah. It says: "DEA referred to the ABC
 39:21 program as the new industry standard."
 39:22 MR. PAPANTONIO: Underline that term, "the
 39:23 new industry standard."
 39:24 BY MR. PAPANTONIO:
 39:25 Q. Sir, you know what a -- you've -- you've
 40:1 worked with industry standards, both with -- well,
 40:2 with Cardinal, industry standards with Kinray,
 40:3 industry standards with Purdue, I take it? You've
 40:4 worked with industry standards with all three of
 40:5 those companies, right?
 40:6 A. Yes.

40:8 - 41:3

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EB04.16

40:8 BY MR. PAPANTONIO:
 40:9 Q. How many years have you been working with
 40:10 industry standards within the distribution of
 40:11 narcotics?
 40:12 A. Well, an industry standard is -- is what,
 40:13 exactly? I mean, an industry standard is what one
 40:14 company may be doing.
 40:15 Q. Okay. And it says: "The DEA referred to
 40:16 the ABC program as the new industry standard."

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40:17 Do you see that?

40:18 A. Yes.

40:19 Q. All right. It says: "I will be setting

40:20 up a meeting to initiate discussions on this topic in

40:21 the near future."

40:22 Did you attend that meeting where there

40:23 were discussions about the industry standards for

40:24 narcotics?

40:25 A. I don't recall if I was present at --

41:1 Q. That's fair enough. That was a long time

41:2 ago, wasn't it?

41:3 A. Yes.

41:11 - 41:17

Brantley, Eric 11-27-2018 (00:00:22)

EB04.17

41:11 Q. It says: "Additionally, I am aware that

41:12 MKC is in ongoing negotiations with DEA relating to

41:13 order to show cause."

41:14 Do you know who "MCK" is?

41:15 A. I will take that to mean McKesson.

41:16 Q. Okay. And you worked with McKesson; you

41:17 were familiar with their business. True?

41:19 - 41:20

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EB04.18

41:19 BY MR. PAPANTONIO:

41:20 Q. What they did?

41:22 - 42:8

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EB04.19

41:22 BY MR. PAPANTONIO:

41:23 Q. Or you didn't?

41:24 A. I knew -- I knew that they were a

41:25 wholesale distributor. I did not know the details of

42:1 their business, no.

42:2 Q. They were a competitor of yours, weren't

42:3 they?

42:4 A. They were another wholesale distributor,

42:5 just like Cardinal Health.

42:6 Q. It says "an order to show cause." What is

42:7 "an order to show cause"? You've -- you've dealt

42:8 with those before, haven't you?

42:11 - 42:16

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EB04.20

42:11 THE WITNESS: I have not dealt directly

42:12 with an order to show cause.

42:13 BY MR. PAPANTONIO:

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42:14 - 42:25	<p>42:14 Q. Do you know what one is? I mean, you've</p> <p>42:15 worked around regulatory long enough to know what an</p> <p>42:16 "order to show cause" is?</p> <p>Brantley, Eric 11-27-2018 (00:00:16)</p> <p>42:19 THE WITNESS: I have a general idea.</p> <p>42:20 BY MR. PAPANTONIO:</p> <p>42:21 Q. Tell me what you think it is.</p> <p>42:22 A. I -- I think an order to show cause in</p> <p>42:23 this case is if DEA has allegations against a</p> <p>42:24 registrant, it gives the registrant an opportunity to</p> <p>42:25 answer to those allegations.</p>	EB04.21
46:9 - 46:13	<p>Brantley, Eric 11-27-2018 (00:00:15)</p> <p>46:9 Q. Oh, okay. Well, who do you recall</p> <p>46:10 suspensions of?</p> <p>46:11 A. I recall that at some point, there were</p> <p>46:12 suspensions of DEA registrations for Cardinal Health.</p> <p>46:13 Q. Explain to the jury what that means.</p>	EB04.22
46:16 - 46:22	<p>Brantley, Eric 11-27-2018 (00:00:13)</p> <p>46:16 BY MR. PAPANTONIO:</p> <p>46:17 Q. Explain to the jury what you just -- what</p> <p>46:18 you just said. Break it down for the jury right now</p> <p>46:19 so they understand, before we go through this</p> <p>46:20 deposition, what you recall about suspensions, before</p> <p>46:21 I start asking you questions about it. Tell the</p> <p>46:22 jury.</p>	EB04.23
46:24 - 47:17	<p>Brantley, Eric 11-27-2018 (00:00:48)</p> <p>46:24 THE WITNESS: I do not remember the time</p> <p>46:25 frame. But there were allegations -- it was</p> <p>47:1 alleged -- I don't remember the details around</p> <p>47:2 shipments to customers.</p> <p>47:3 I remember that during the course of my</p> <p>47:4 job, identifying pharmacies, shutting those</p> <p>47:5 pharmacies off from receiving controlled</p> <p>47:6 substances, and reporting those pharmacies to</p> <p>47:7 the DEA. And then at some point, I remember</p> <p>47:8 those same pharmacies being a part of whatever</p> <p>47:9 the documents were around the -- the suspension,</p> <p>47:10 pharmacies that we had shut off 12 to 18 months</p> <p>47:11 prior.</p> <p>47:12 BY MR. PAPANTONIO:</p>	EB04.24

47:13 Q. We'll show you documents, and we'll -- the
 47:14 jury will be able to see what you cut off and when.
 47:15 But we'll -- we'll leave that for the jury to look
 47:16 at, but let me go ahead with what this says right
 47:17 here.

47:20 - 50:4

Brantley, Eric 11-27-2018 (00:02:41)

EB04.25

47:20 BY MR. PAPANTONIO:

47:21 Q. Let me ask you a question. It says: "I
 47:22 think it would be safe to assume that the DEA will
 47:23 use this opportunity to get MCK to implement an
 47:24 ABC-like program."

47:25 Who is "ABC"? Do you know?

48:1 A. I would take ABC to be AmerisourceBergen.

48:2 Q. Okay. It says: "Also at the industry
 48:3 meeting, the H.D. Smith director of regulatory
 48:4 compliance was pulled aside and told that the DEA has
 48:5 concern with some of their customers and to schedule
 48:6 a meeting with DEA in D.C. to discuss that he should
 48:7 bring his IT people with him."

48:8 See that?

48:9 A. Yes.

48:10 Q. Okay. And then this last paragraph, it
 48:11 says -- put a box around this, if you can, because
 48:12 this is where we're going to be spending some time.
 48:13 It says: "We need to be proactive and
 48:14 implement a program that we develop that will satisfy
 48:15 DEA expectations, and this is not -- and is not
 48:16 dictated to us by the Agency pursuant to regulatory
 48:17 actions. The ABC program is not customer friendly
 48:18 and results in delayed filing and delivery of
 48:19 controlled substances -- substance orders to the
 48:20 customer."

48:21 Do you see that? You see where I read

48:22 that? You got --

48:23 A. Yes.

48:24 Q. You got this letter, didn't you?

48:25 A. My name is on the address list, yes.

49:1 Q. And then if you'll go to the next page,
 49:2 let's take a look at what the -- actually let's go
 49:3 right -- go to page 4, and we'll -- we'll just review

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49:4 what the ABC -- the new program for ABC was. Page 4.

49:5 You see that? Looks like this

49:6 (indicating).

49:7 A. Yes.

49:8 Q. Okay. So AmerisourceBergen, which is the

49:9 company that we're talking about here, their

49:10 programs, it says: "Drug Enforcement Administration

49:11 Pharmaceutical Industry Conference."

49:12 You see that? September 11th, 2007?

49:13 A. Yes.

49:14 Q. And if you'll go to -- if you will go then

49:15 to the bottom of that page, it says: "Regulatory

49:16 responsibility. Title 21 of code -- of the Code of

49:17 Federal Regulations," and it gives 1301.71.

49:18 "All applicants and registrants shall

49:19 provide effective controls and procedures to guard

49:20 against theft and diversion of a controlled

49:21 substance."

49:22 Right? See that?

49:23 A. Yes.

49:24 Q. And you knew that -- you knew about that

49:25 statute, didn't you? When you were working, you knew

50:1 about the statute, right?

50:2 A. At the time that I was responsible for

50:3 reviewing the ingredient limit reports and

50:4 identifying pharmacies, yes.

59:11 - 59:19

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EB04.26

59:11 BY MR. PAPANTONIO:

59:12 Q. Your testimony, Mr. Brantley, is at the

59:13 time, that your company was reporting suspicious

59:14 orders, right?

59:15 A. We generate ingredient limit reports, and

59:16 we submitted those reports to the DEA every month.

59:17 Q. So you're reporting suspicious orders,

59:18 according to what your testimony is here today? Is

59:19 that a yes or a no?

59:22 - 59:23

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EB04.27

59:22 THE WITNESS: We filed ingredient limit

59:23 reports with the DEA every month.

65:4 - 65:20

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65:4 Q. I mean, in good faith -- you really
65:5 believed there was a suspicious order program in
65:6 place when you left the company; is that your
65:7 testimony?

65:8 A. There was a suspicious order program in
65:9 place while I was at the company. And there is a
65:10 suspicious order in -- in place at the company, yes.

65:11 Q. You thought that?

65:12 A. I knew that because I worked on the
65:13 program.

65:14 My job was to identify such orders by
65:15 reviewing the ingredient limit reports, and in
65:16 addition, to go above and beyond, to go out and
65:17 conduct a site visit of that customer and shut that
65:18 customer off from controlled substances, and then
65:19 report not a suspicious order, but a customer to the
65:20 DEA.

150:19 - 151:6

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EB04.28

150:19 Q. And you were the guy in corporate that was
150:20 reviewing these orders, weren't you?

150:21 A. I was an individual at the corporate
150:22 office that was reviewing ingredient limit reports on
150:23 a monthly basis.

150:24 Q. And there were only two more of you,
150:25 weren't there?

151:1 A. At the corporate level?

151:2 Q. Yeah.

151:3 A. As far as the team that I managed, yes.

151:4 Q. And this is -- and these drugs are going
151:5 out, these narcotic drugs are going out all over the
151:6 country, aren't they?

151:9 - 151:18

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EB04.29

151:9 THE WITNESS: During a certain time frame,
151:10 during a certain time frame, there were two or
151:11 three of us, from 2005 until, again, 2007-8 time
151:12 frame.

151:13 BY MR. PAPANTONIO:

151:14 Q. There were --

151:15 A. And then there were others added. But
151:16 during that time frame, yes, there were two or three.

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151:17	Q. At corporate level?	
151:18	A. At the corporate level.	
176:19 - 176:22	Brantley, Eric 11-27-2018 (00:00:12)	EB04.102
176:19	Q. Well, what was your job in 2005?	
176:20	A. As I've stated several times, my -- my job	
176:21	was to review ingredient limit reports, conduct	
176:22	investigations, and report those to the DEA.	
360:19 - 361:3	Brantley, Eric 11-27-2018 (00:00:22)	EB04.30
360:19	Q. Mr. Brantley, you've been speaking with	
360:20	Mr. Papantonio for quite some time. I wanted just to	
360:21	follow up on a few things and cover a few new areas;	
360:22	I'm going to try not to repeat anything. Okay?	
360:23	A. Okay.	
360:24	Q. So the two or three people that also	
360:25	filled your role from '05 to '07, who were they?	
361:1	A. Tim Dunham.	
361:2	Q. Okay.	
361:3	A. And Nick Rausch.	
363:17 - 363:23	Brantley, Eric 11-27-2018 (00:00:15)	EB04.31
363:17	Q. You mentioned several times that the	
363:18	system that was in place was this reviewing	
363:19	ingredient limit reports, correct, is what you would	
363:20	do?	
363:21	A. Yes.	
363:22	Q. And you did that manually; is that right?	
363:23	A. Yes.	
364:14 - 365:12	Brantley, Eric 11-27-2018 (00:00:55)	EB04.32
364:14	Q. This will be Plaintiffs' Exhibit	
364:15	Number 24.	
364:16	And you see this e-mail, it starts off	
364:17	from Mr. Kurtz, Bob Kurtz:	
364:18	Do you know who Bob Kurtz is?	
364:19	A. I do not. I think I've heard that name	
364:20	before, but I don't remember who he was.	
364:21	Q. Operations manager down in Lakeland,	
364:22	Florida; does that sound familiar?	
364:23	A. Again, I've heard the name before, but --	
364:24	Q. Fair enough.	
364:25	A. -- that still does not put it into	
365:1	context.	

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365:2 Q. And he's sending it to Rafael Varela; do
365:3 you know Mr. Varela?

365:4 A. I have heard that name as well.

365:5 Q. If you scan down a little bit lower on the
365:6 e-mail, Mr. Varela is the compliance and QA manager
365:7 for Cardinal Health, Lakeland, Florida.

365:8 Do you see that?

365:9 A. Yes.

365:10 Q. Okay. And it starts off -- now let's go
365:11 through the time frame. I apologize. December 5th,
365:12 2007.

365:16 - 366:10

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EB04.33

365:16 Q. December 5th, 2007. It's right about the
365:17 time that these immediate suspension orders are
365:18 coming out, correct?

365:19 A. I don't remember the dates.

365:20 November 28th, 2007, was -- seems like to be the
365:21 first one, yes.

365:22 Q. Okay. So right about that time, and this
365:23 e-mail is in response, because it says "More
365:24 information on DEA suspension."

365:25 Do you see that there?

366:1 A. Yes.

366:2 Q. And then it says: "Just some thoughts on
366:3 Auburn, Washington, incident that concern me."

366:4 It says -- and if we skip down to the next
366:5 paragraph: "The manual process we perform now with
366:6 the discovery of suspected excessive purchases being
366:7 left up to the keyer notifying myself or the picker,
366:8 double-checker, QCer questioning the amount being
366:9 processed seems to leave ample opportunity for
366:10 failure."

366:14 - 366:16

Brantley, Eric 11-27-2018 (00:00:07)

EB04.34

366:14 Q. "Ample opportunity for failure." It's
366:15 clearly a concern being voiced by the people in
366:16 Lakeland, right?

366:18 - 366:22

Brantley, Eric 11-27-2018 (00:00:13)

EB04.35

366:18 THE WITNESS: This is a concern being
366:19 stated by Bob Kurtz.

366:20 BY MR. FULLER:

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Page/Line	Source	ID
367:8 - 367:19	<p>366:21 Q. And if you look back at 4230, what's the</p> <p>366:22 date of the immediate suspension order for Lakeland?</p> <p>Brantley, Eric 11-27-2018 (00:00:33)</p> <p>367:8 Q. Same day that e-mail is sent, isn't it?</p> <p>367:9 A. December 5th, 2007. December 5th, 2007.</p> <p>367:10 Yes.</p> <p>367:11 Q. They say: "A system-generated flag would</p> <p>367:12 be a more complete, thorough method for</p> <p>367:13 determining" -- or excuse me -- "of determining</p> <p>367:14 spikes or excessive quantities than we are currently</p> <p>367:15 performing."</p> <p>367:16 Did I read that correctly?</p> <p>367:17 A. Yes.</p> <p>367:18 Q. And during that time frame, there was no</p> <p>367:19 automated system for generating flags, was there?</p>	EB04.36
367:21 - 367:23	<p>Brantley, Eric 11-27-2018 (00:00:04)</p> <p>367:21 THE WITNESS: To my knowledge, the system</p> <p>367:22 was reviewing the ingredient limit reports that</p> <p>367:23 I was doing then.</p>	EB04.37
367:25 - 368:6	<p>Brantley, Eric 11-27-2018 (00:00:15)</p> <p>367:25 Q. You had the monthly reports that you were</p> <p>368:1 sending off, and then you had pickers and checkers</p> <p>368:2 looking for excessive orders in the building, right?</p> <p>368:3 A. Yes. That report was a computer-generated</p> <p>368:4 report.</p> <p>368:5 Q. Right. But there was no red flags that</p> <p>368:6 got flagged, correct?</p>	EB04.38
368:10 - 368:18	<p>Brantley, Eric 11-27-2018 (00:00:19)</p> <p>368:10 A. Every -- every entity that appeared on</p> <p>368:11 that ingredient limit report had reached the</p> <p>368:12 threshold requirement.</p> <p>368:13 Q. Exceeded the threshold, correct?</p> <p>368:14 A. Exceeded the threshold for -- reached or</p> <p>368:15 exceeded the threshold for that substance.</p> <p>368:16 Q. And those reports came out well after</p> <p>368:17 those products were shipped, after the pills were out</p> <p>368:18 on the street, right?</p>	EB04.39
368:20 - 368:20	<p>Brantley, Eric 11-27-2018 (00:00:01)</p> <p>368:20 THE WITNESS: Those were monthly reports.</p>	EB04.40
368:22 - 368:23	<p>Brantley, Eric 11-27-2018 (00:00:03)</p>	EB04.41

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Page/Line	Source	ID
368:25 - 369:1	<p>368:22 Q. And the report came out after the pills 368:23 were already on the street, didn't they?</p> <p>Brantley, Eric 11-27-2018 (00:00:03)</p> <p>368:25 THE WITNESS: The report was generated 369:1 after the shipments had shipped.</p>	EB04.42
369:3 - 369:11	<p>Brantley, Eric 11-27-2018 (00:00:26)</p> <p>369:3 Q. It says: "As you know, I've investigated 369:4 many accounts, tracked their ordering history and 369:5 reached out for guidance and directions. But without 369:6 someone bringing a suspected excessive quantity order 369:7 to our attention, many, many more could be going out 369:8 the door under our noses." 369:9 And as Mr. Papantonio showed you earlier, 369:10 that was the problem. All the pills were going out 369:11 the door; no one was stopping them, wasn't it?</p>	EB04.43
369:13 - 369:15	<p>Brantley, Eric 11-27-2018 (00:00:09)</p> <p>369:13 THE WITNESS: Well, the cage vault 369:14 personnel did have the ability to identify and 369:15 order at time of picking and report that order.</p>	EB04.44
369:17 - 369:25	<p>Brantley, Eric 11-27-2018 (00:00:12)</p> <p>369:17 Q. Well, in order to do that, they would have 369:18 to know what they're picking. 369:19 You would agree with that, wouldn't you? 369:20 A. Based on their knowledge. 369:21 Q. They would have to to know what they're 369:22 picking to be able to -- 369:23 A. They would have to know what's in front of 369:24 them, what they are picking. 369:25 Q. Absolutely.</p>	EB04.45
370:3 - 370:4	<p>Brantley, Eric 11-27-2018 (00:00:02)</p> <p>370:3 Q. And if they don't, they can't do their 370:4 job, can they?</p>	EB04.46
370:6 - 370:7	<p>Brantley, Eric 11-27-2018 (00:00:01)</p> <p>370:6 THE WITNESS: If they don't know what 370:7 they're picking?</p>	EB04.47
370:10 - 370:14	<p>Brantley, Eric 11-27-2018 (00:00:08)</p> <p>370:10 A. If they don't know what they're picking, 370:11 are you saying they can't do their job? They can 370:12 still pick and ship orders, right? 370:13 Q. They can pick and ship orders, but they</p>	EB04.48

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370:16 - 370:24	<p>370:14 can't pick out the excessive orders, right?</p> <p>Brantley, Eric 11-27-2018 (00:00:14)</p> <p>370:16 THE WITNESS: If they don't know what</p> <p>370:17 they're picking -- I'm just trying to</p> <p>370:18 understand. If they don't know what they're</p> <p>370:19 picking, they can --</p> <p>370:20 BY MR. FULLER:</p> <p>370:21 Q. If they don't know it's a Control II, or</p> <p>370:22 what type of product it is that they're picking, they</p> <p>370:23 can't do their job to bring it to someone's</p> <p>370:24 attention, can they?</p>	EB04.49
371:1 - 371:3	<p>Brantley, Eric 11-27-2018 (00:00:06)</p> <p>371:1 THE WITNESS: Well, if you don't know what</p> <p>371:2 you're picking, then you can't identify it, yes,</p> <p>371:3 true.</p>	EB04.50
371:6 - 371:12	<p>Brantley, Eric 11-27-2018 (00:00:19)</p> <p>371:6 And then it says, "I wonder, could a</p> <p>371:7 similar situation happen in Lakeland and management</p> <p>371:8 be questioned why wasn't this discovered?"</p> <p>371:9 Do you see that there?</p> <p>371:10 A. Yes.</p> <p>371:11 Q. It happens the same day the immediate</p> <p>371:12 suspension order is issued for Lakeland, doesn't it?</p>	EB04.51
371:14 - 371:15	<p>Brantley, Eric 11-27-2018 (00:00:04)</p> <p>371:14 THE WITNESS: Yes, we did verify that the</p> <p>371:15 two dates match the December 5th, yes.</p>	EB04.52
371:17 - 372:8	<p>Brantley, Eric 11-27-2018 (00:00:40)</p> <p>371:17 Q. Pickers and checkers.</p> <p>371:18 Do you know Mr. Baranski?</p> <p>371:19 A. I do not.</p> <p>371:20 Q. He was the director of operations -- is</p> <p>371:21 the director of operations for the Wheeling facility.</p> <p>371:22 You know the Wheeling distribution center in West</p> <p>371:23 Virginia?</p> <p>371:24 A. I'm familiar with the Wheeling facility.</p> <p>371:25 Q. That also serviced not only West Virginia</p> <p>372:1 but portions of Ohio as well, correct?</p> <p>372:2 A. I don't remember. I know that -- I'm sure</p> <p>372:3 they service West Virginia. It's possible they could</p> <p>372:4 have serviced -- I just don't remember.</p>	EB04.53

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Page/Line	Source	ID
372:11 - 372:12	<p>372:5 Q. Well, let's see what Mr. Baranski had to 372:6 say about the picker's knowledge on what they were 372:7 picking. Okay? He would be the one to ask, you 372:8 would agree, correct?</p> <p>Brantley, Eric 11-27-2018 (00:00:02)</p>	EB04.54
372:15 - 372:25	<p>372:11 Q. He's the director of operations for that 372:12 facility?</p> <p>Brantley, Eric 11-27-2018 (00:00:17)</p> <p>372:15 THE WITNESS: I can't say that he would be 372:16 the one to ask, I mean, at that level, but -- 372:17 BY MR. FULLER: 372:18 Q. He's the one that runs the building, 372:19 right? 372:20 A. He has oversight of the -- he's the 372:21 director of operations of the facility. 372:22 Q. He's the head honcho, as far as that 372:23 building, correct? 372:24 A. He is the highest-ranking person at that 372:25 facility.</p>	EB04.55
373:4 - 373:24	<p>Brantley, Eric 11-27-2018 (00:00:45)</p> <p>373:4 "Q Now, when we're going to pick up 373:5 the product -- and let's deal with the 373:6 controls. 373:7 "A Sure. 373:8 "Q If you have -- and I guess this 373:9 depends on how you get the order. If 373:10 I'm going to pick up the same substances 373:11 both in a brand name and in a generic, 373:12 how do I know which to grab, if I'm the 373:13 picker? 373:14 "A The unit tells them what 373:15 location to go to. 373:16 "Q And would the order have 373:17 specified whether it was picking up a 373:18 generic -- you know, something made by a 373:19 particular manufacturer versus a 373:20 generic? 373:21 "A We teach our people to pick from 373:22 location to tote. I don't even care if 373:23 they know the product. I want them to</p>	EB04.56

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Page/Line	Source	ID
374:3 - 374:15	<p>373:24 know location to tote.</p> <p>Brantley, Eric 11-27-2018 (00:00:27)</p> <p>374:3 Q. So according to Mr. Baranski, they're</p> <p>374:4 picking by location only. He doesn't even care if</p> <p>374:5 they know the product. Right? That's what he</p> <p>374:6 testified to, correct?</p> <p>374:7 A. He stated that he doesn't care whether</p> <p>374:8 they know the product. That does not mean that the</p> <p>374:9 person picking does not know what the product is. He</p> <p>374:10 expressed his opinion.</p> <p>374:11 Q. Sure. And according to him, the one over</p> <p>374:12 the Wheeling distribution center, he doesn't even</p> <p>374:13 care if they know the product: Pick from location to</p> <p>374:14 tote.</p> <p>374:15 That's what he testified to, correct?</p>	EB04.57
374:17 - 374:18	<p>Brantley, Eric 11-27-2018 (00:00:01)</p> <p>374:17 THE WITNESS: That is the statement that</p> <p>374:18 he made.</p>	EB04.58
374:20 - 374:23	<p>Brantley, Eric 11-27-2018 (00:00:15)</p> <p>374:20 Q. Okay. Now, we looked at that MOU just for</p> <p>374:21 a second. Are you aware whether Cardinal did do an</p> <p>374:22 18-month lookback over its distributions?</p> <p>374:23 A. I don't know.</p>	EB04.59
396:20 - 396:23	<p>Brantley, Eric 11-27-2018 (00:00:12)</p> <p>396:20 Q. And you, as you testified earlier,</p> <p>396:21 you reported customers to the DEA, not suspicious</p> <p>396:22 orders, correct?</p> <p>396:23 A. I reported customers.</p>	EB04.90
517:25 - 522:12	<p>Brantley, Eric 11-27-2018 (00:05:05)</p> <p>517:25 Q. Good afternoon, Mr. Brantley.</p> <p>518:1 A. Good afternoon.</p> <p>518:2 Q. My name's Steven Pyser, and I represent</p> <p>518:3 Cardinal Health.</p> <p>518:4 Can you introduce yourself to the jury.</p> <p>518:5 A. Yes. My name is Eric Brantley.</p> <p>518:6 Q. Where did you grow up, Mr. Brantley?</p> <p>518:7 A. Flint, Michigan.</p> <p>518:8 Q. And did there come a time when you went to</p> <p>518:9 work as an employee of Cardinal Health?</p> <p>518:10 A. Yes.</p>	EB04.61

518:11 Q. When was that, approximately?

518:12 A. I started with Bentley Trading in

518:13 January 2000, and that company was acquired by

518:14 Cardinal Health in 2002.

518:15 Q. And how long did you work at Cardinal

518:16 Health?

518:17 A. I left Cardinal Health 2013; I want to say

518:18 October, September.

518:19 Q. So 2002 --

518:20 A. 2013.

518:21 Q. -- to roughly 2013; we're talking about

518:22 11 years, roughly?

518:23 A. Yes.

518:24 Q. During your -- your 11 years, can you

518:25 describe from your perspective Cardinal Health's role

519:1 in the health care distribution system in the United

519:2 States?

519:3 A. Yes. As a distributor, Cardinal purchases

519:4 prescription drugs, including controlled substances,

519:5 from the manufacturer and distributes those to final

519:6 dispensers: Pharmacies, chain pharmacies, hospitals,

519:7 DOD, VA. Things like that.

519:8 Q. There's been a lot of discussion about

519:9 controlled substances.

519:10 Is Cardinal Health's role broader than

519:11 just controlled substances?

519:12 A. Yes. Controlled substances represent a

519:13 relatively small percentage of overall with Cardinal

519:14 distributes. They distribute over-the-counter

519:15 products, all prescription drugs, everything down

519:16 from toothpaste and toothbrushes.

519:17 Q. And in addition to the many things that go

519:18 to a hospital or a pharmacy, does Cardinal Health

519:19 also have a medical side unrelated to

519:20 pharmaceuticals?

519:21 A. Yes. So pharmaceutical distribution is

519:22 just one part of Cardinal Health. There is a medical

519:23 side that has distribution centers across the

519:24 country, and various organizations that the company

519:25 owns.

520:1 Q. In your experience, does -- does Cardinal
520:2 Health ever interact directly with patients?

520:3 A. No.

520:4 Q. Does Cardinal Health ever interact
520:5 directly with doctors?

520:6 A. No.

520:7 Q. So if you could, starting around 2002,
520:8 describe -- actually, strike that.

520:9 Was there a point in time when your job at
520:10 Cardinal Health focused on anti-diversion efforts?

520:11 A. Yes.

520:12 Q. About when was that?

520:13 A. 2005. Time frame 2005 till late 2007 or
520:14 early 2008, somewhere around in there.

520:15 Q. And could you describe in your own words
520:16 what types of things you did as an employee for
520:17 Cardinal Health working on anti-diversion issues?
520:18 What were your main responsibilities?

520:19 A. My main responsibilities were reviewing
520:20 ingredient limit reports on a monthly basis, and I
520:21 would conduct investigations as necessary on
520:22 pharmacies, and I would report those pharmacies to
520:23 the DEA -- report those pharmacies to the DEA.

520:24 Q. When you say "conduct investigations,"
520:25 were there times when you went out and visited
521:1 pharmacies?

521:2 A. They would be site visits, yes. I would
521:3 go out and visit the pharmacy and -- and ask
521:4 questions and see what was going on. Do an
521:5 investigation.

521:6 Q. You mentioned ingredient limit reports, or
521:7 ILRs. What is an ingredient limit report?

521:8 A. An ingredient limit report is -- is based
521:9 on a formula to identify a formula provided by DEA to
521:10 identify a certain limit or a threshold, as you will.
521:11 And so the report would generate for any customer
521:12 that exceeded that threshold. And then that report
521:13 was sent to DEA every month.

521:14 Q. And do you know where the criteria came
521:15 from for Cardinal Health to develop its ingredient

521:16 limit reports?

521:17 A. Yes. It came from the DEA.

521:18 Q. In your job, were you at the Dublin center

521:19 for Cardinal Health, the corporate offices?

521:20 A. Yes, I was in Dublin, Ohio, at corporate.

521:21 Q. How did you receive the ingredient limit

521:22 reports that you reviewed?

521:23 A. They came via mail, or like a UPS-type

521:24 service.

521:25 Q. And do you know if anyone else other than

522:1 yourself received identical ingredient limit reports

522:2 from the various distribution centers of Cardinal

522:3 Health?

522:4 A. The distribution centers generate their

522:5 report. Someone there reviewed the report. The

522:6 report was sent to the DEA from the distribution

522:7 center, and then I reviewed the reports along with

522:8 members of the team.

522:9 Q. So the ingredient limit reports that you

522:10 would be reviewing, DEA would have that full report;

522:11 is that fair?

522:12 A. Yes.

522:15 - 526:8

Brantley, Eric 11-27-2018 (00:04:54)

EB04.62

522:15 BY MR. PYSER:

522:16 Q. Do you know whether anyone at DEA also

522:17 received ingredient limit reports?

522:18 A. The ingredient limit reports were sent to

522:19 the DEA on a monthly basis.

522:20 Q. You talked a little bit about site visits

522:21 and additional work you did beyond just reviewing the

522:22 ingredient limit reports. It -- were there times

522:23 when you made decisions as a result of site visits?

522:24 A. Yes. If -- if during a site visit it was

522:25 deemed that they were doing, for instance,

523:1 Internet -- they were associated with an Internet

523:2 pharmacy, then I would make a recommendation to

523:3 discontinue business with that -- or discontinue

523:4 controlled substance shipments with that pharmacy and

523:5 then report that pharmacy to Kyle Wright at the DEA.

523:6 Q. And to your knowledge, when you made a

523:7 decision to discontinue business with a pharmacy, did

523:8 Cardinal Health follow that recommendation?

523:9 A. Yes.

523:10 Q. And when you reported a pharmacy to the

523:11 DEA, who did you send that information to?

523:12 A. I sent the -- an e-mail to Kyle Wright at

523:13 DEA headquarters.

523:14 Q. Who -- who is Kyle Wright?

523:15 A. I don't remember his exact title, but I

523:16 believe he may have been over the e-commerce section.

523:17 But he was where registrants submitted such reports

523:18 to the DEA.

523:19 Q. Was it your understanding that the purpose

523:20 of sending ingredient limit reports to DEA was to

523:21 comply with the DEA regulations for suspicious-order

523:22 reporting?

523:23 A. Yes.

523:24 Q. So why did you conduct site visits and

523:25 investigations of customers on top of the ingredient

524:1 limit reports?

524:2 A. That was over and above the requirement.

524:3 The requirement was to report the suspicious orders,

524:4 and then based on the report I saw, I would actually

524:5 go out and investigate the pharmacies to actually

524:6 report those pharmacies to the DEA as well, in

524:7 addition to orders.

524:8 Q. Let's take a look at a document.

524:9 I'm showing you a document that's been

524:10 marked Exhibit 34 in this deposition. It's a new

524:11 exhibit.

524:12 (Cardinal-Brantley 34 was marked for

524:13 identification.)

524:14 BY MR. PYSER:

524:15 Q. Just so we can see it, I'll put it in

524:16 front of Exhibit 34, up on the Elmo.

524:17 What is Exhibit 34?

524:18 A. This is the Cardinal Health DEA compliance

524:19 manual.

524:20 Q. And if you look at the -- the table of

524:21 contents, does it cover several different areas of

524:22 DEA compliance? It's a thick document, a couple
524:23 hundred pages.

524:24 A. Yes.

524:25 Q. And if you look at Section 7 of the DEA

525:1 compliance manual, is that section titled "Required
525:2 Reports to DEA"?

525:3 A. Section 7?

525:4 Q. If you turn to Bates page ending 898 --

525:5 A. Oh, yes.

525:6 Q. -- of the table of contents.

525:7 A. I see it. I see it.

525:8 Q. So let's go together to Section 7.

525:9 And I'll give you the Bates number, which

525:10 is going to be the number in the bottom right corner.

525:11 It's going to be Bates ending 937.

525:12 And to your recollection, was this DEA

525:13 compliance manual in effect during the time that you
525:14 worked at Cardinal Health?

525:15 A. Yes.

525:16 Q. Okay. And specifically during the time

525:17 period 2005 through '07 or '08, when you were working
525:18 the anti-diversion area?

525:19 A. Yes.

525:20 Q. So if you look at Section 7-1, the

525:21 required reports to DEA, the first report mentioned
525:22 is ARCOS.

525:23 Can you tell me what an ARCOS report is?

525:24 A. Yes. The ARCOS report is -- is a report

525:25 of all movement of ARCOS-reportable controlled

526:1 substances, the Schedule II controlled substances,

526:2 all movement. Those reports were sent to the DEA

526:3 every month.

526:4 Q. So it's a report received by DEA about

526:5 every movement of every controlled substance; is that

526:6 a fair kind of shorthand for ARCOS?

526:7 A. Yes, of all the ARCOS reportable

526:8 controlled substances, yes.

526:9 - 526:19

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EB04.91

526:9 Q. Now, if you -- were there any other

526:10 reports that went to DEA?

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526:11 A. Yes. The ARCOS report, the biannual
 526:12 report, there was end-of-year inventory taken, the
 526:13 ingredient limit reports every month.
 526:14 Q. Pausing on the ARCOS reports for a minute,
 526:15 in a situation where a hospital or a pharmacy ordered
 526:16 controlled substances from more than one distributor,
 526:17 would the distributors necessarily know that that
 526:18 hospital or that pharmacy received controlled
 526:19 substances from multiple sources?

526:24 - 527:7

Brantley, Eric 11-27-2018 (00:00:26)

EB04.63

526:24 A. No.
 526:25 Q. When you were at Cardinal Health, were you
 527:1 aware of what distributions a hospital or a pharmacy
 527:2 might have received from other distributors, not
 527:3 Cardinal Health?
 527:4 A. No.
 527:5 Q. To your knowledge, were ARCOS reports
 527:6 submitted by all distributors?
 527:7 A. Yes. All registrants.

527:20 - 527:22

Brantley, Eric 11-27-2018 (00:00:10)

EB04.64

527:20 What's your understanding of what ARCOS
 527:21 contains when you put together all of the ARCOS
 527:22 submissions from all the distributors?

527:24 - 529:4

Brantley, Eric 11-27-2018 (00:01:28)

EB04.65

527:24 THE WITNESS: It would have data from all
 527:25 of the DEA registrants; for instance, the
 528:1 wholesalers and all of the purchases and the
 528:2 shipments of those controlled substances to
 528:3 other DEA registrants. The complete picture.
 528:4 You could see all of the drugs that a pharmacy,
 528:5 for instance, was purchasing from every source
 528:6 and all of the sales from the wholesaler to
 528:7 pharmacies. It was a complete picture of all
 528:8 the transactions of those controlled substances.
 528:9 BY MR. PYSER:
 528:10 Q. Just to be clear, did Cardinal Health have
 528:11 access to that information?
 528:12 A. No.
 528:13 Q. Did DEA have access to that?
 528:14 A. Yes.

Page/Line

Source

ID

528:15 Q. Turning the page to 7-3, there's a section

528:16 titled "Suspicious Orders."

528:17 Do you see that?

528:18 A. Yes.

528:19 Q. And under it is listed 21 CFR 1301.74(b).

528:20 Do you see that?

528:21 A. Yes.

528:22 Q. What is that, 21 CFR 1301.74(b)?

528:23 A. That's the regulation for suspicious

528:24 orders. It's -- states that registrant is

528:25 responsible for implementing, designing a -- a system

529:1 to identify suspicious orders and report those to the

529:2 DEA. And further goes on to say that a suspicious

529:3 order is an order of unusual size, frequency, that

529:4 deviates substantially from a normal order pattern.

529:8 - 530:1

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EB04.66

529:8 In the compliance manual for Cardinal

529:9 Health, under "Suspicious Orders," can you read the

529:10 first sentence?

529:11 A. "Wholesalers are" -- are you meaning the

529:12 first sentence under "Suspicious Orders"?

529:13 Q. Correct, yes.

529:14 A. "Wholesalers are responsible for designing

529:15 and operating a system that would disclose to the

529:16 wholesaler suspicious orders."

529:17 Q. Did Cardinal Health have such a system in

529:18 2005, when you began your work in anti-diversion?

529:19 A. Yes.

529:20 Q. When you came into your role in 2005, was

529:21 that system already up and running?

529:22 A. Yes.

529:23 Q. In fact, if you look at the date of this

529:24 document, in the bottom left, you see that it's

529:25 April 5th, 2000?

530:1 A. Yes.

530:2 - 530:25

Brantley, Eric 11-27-2018 (00:01:21)

EB04.92

530:2 Q. The next bold heading is "Establishing

530:3 Suspicious Order Criteria."

530:4 Do you see that?

530:5 A. Yes.

530:6 Q. And if you turn the page to page 7-4, you
 530:7 see at the top of that page, it states, quote:
 530:8 "Complying with 21 CFR 1301.74(b) is a two-step
 530:9 process"?

530:10 A. Yes.

530:11 Q. Can you describe for me in your own words
 530:12 what the two-step process that's discussed in
 530:13 Cardinal Health's compliance manual are?

530:14 A. Yes. The ingredient limit reports that
 530:15 are done are sent to the DEA every month, as well as
 530:16 the cage vault personnel had the ability to identify
 530:17 anything that they deemed to be suspicious and
 530:18 reported that as well.

530:19 Q. The -- the first description in the manual
 530:20 says, "First, each Cardinal division submits to DEA
 530:21 on a monthly basis an ingredient limit report,
 530:22 Exhibit M."

530:23 I'd like to direct your attention to
 530:24 Exhibit M in this document, which is Bates page
 530:25 ending 4157, if you turn there with me.

531:1 - 532:12

Brantley, Eric 11-27-2018 (00:01:59)

EB04.93

531:1 Is this an example of an ingredient limit
 531:2 report?

531:3 A. Yes.

531:4 Q. It's a little bit hard to read on the
 531:5 screen, but if you could help us out a little bit,
 531:6 can you tell us what's in this document; what's in
 531:7 this report that's sent to DEA?

531:8 A. This is a report of the customers, along
 531:9 with the date -- date of the transactions and the
 531:10 drug, and the amount in -- in grams, what was ordered
 531:11 of that controlled substance for the month. And it
 531:12 lists what the ingredient limit was and what the
 531:13 total was for that drug.

531:14 Q. Zooming in a little bit here, it gives the
 531:15 customer name at the top, you mentioned, correct?

531:16 A. Yes.

531:17 Q. And then it provides the ingredient you
 531:18 mentioned, right?

531:19 A. Yes.

531:20 Q. And then it speaks to specific orders

531:21 underneath, and those are sent to the DEA, right?

531:22 A. Yes.

531:23 Q. And then all the way on the right side of

531:24 the page gives some additional information, a

531:25 customer total and ingredient limit.

532:1 Can you explain for us what those are?

532:2 A. Yes. The ingredient limit is the -- the

532:3 limit that was calculated using a formula received

532:4 from DEA, and then the customer total is what that

532:5 customer ordered that month.

532:6 Q. I recognize this is just an example from

532:7 Cardinal Health's compliance manual, but was similar

532:8 information provided in each ingredient limit report

532:9 sent to the DEA during the time you were reviewing

532:10 ingredient limit reports?

532:11 A. Yes.

532:12 Q. You can go back to page 7-4. And 7-4,

532:13 - 533:18

Brantley, Eric 11-27-2018 (00:01:26)

EB04.94

532:13 after it discusses Exhibit M, goes on to state:

532:14 "This report is based on a computer program which

532:15 monitors controlled substance purchases for a month

532:16 and compares these purchases to predetermined

532:17 averages or limits, and if a customer's purchase

532:18 quantities exceed the established parameters, the

532:19 customer's activity is printed on the report."

532:20 Is this an accurate description of the

532:21 ingredient limit report as you understood it?

532:22 A. Yes.

532:23 Q. Fair description of how it worked during

532:24 your time?

532:25 A. Yes.

533:1 Q. And these parameters that are used for the

533:2 computer program, the established parameters that are

533:3 discussed, where did they come from?

533:4 A. They came from DEA.

533:5 Q. A little bit further down, it discusses

533:6 the second piece of Cardinal Health's two-step

533:7 process to comply with 1301.74(b).

533:8 And can you read for me in the next

533:9 paragraph the sentence beginning "Second"?

533:10 A. "Second, on a daily basis, cage and vault

533:11 personnel should be policing and identifying

533:12 individual orders that appear excessive in relation

533:13 to what other customers are buying and/or the

533:14 customer's purchase history."

533:15 Q. All right.

533:16 A. Read the entire paragraph, or just that?

533:17 Q. That's good.

533:18 A. Okay.

533:25 - 538:25

Brantley, Eric 11-27-2018 (00:05:30)

EB04.67

533:25 Q. In your experience, are there pickers and

534:1 packers in Cardinal facilities for items other than

534:2 controlled substances?

534:3 A. Yes. So there are pickers and packers in

534:4 the general warehouse, and then there are separate

534:5 pickers and packers in the controlled substance cage,

534:6 and then separate packers in the vault -- separate

534:7 pickers and packers in a vault.

534:8 Q. Is it true that the vast majority of

534:9 products that Cardinal ships have nothing to do with

534:10 controlled substances or opioids?

534:11 A. That is correct.

534:12 Q. In your experience, the folks who get

534:13 selected to work in the cage area or the vault area,

534:14 where Cardinal Health stores opioid medications, are

534:15 they the best of the best of Cardinal's warehouse

534:16 employees?

534:17 A. Yes. They are the crhme de la crhme, as I

534:18 call them. The -- the best ones are selected to work

534:19 in the cage and vault area.

534:20 Q. So in your experience, would a reference

534:21 to pickers and packers just putting things in totes,

534:22 would that necessarily apply to cage and vault

534:23 employees, or would that be something different?

534:24 A. No, the cage and vault pick process was --

534:25 was different. There were other -- there were

535:1 additional checks and balances on picking orders in

535:2 the -- the cage and vault. It was -- it was

535:3 different than how it was done in the general

535:4 warehouse.

535:5 Q. In the event that through this second
535:6 process, someone in the distribution center
535:7 identified an issue, whose responsibility was it to
535:8 alert DEA of such an issue?

535:9 A. That person would notify their supervisor,
535:10 and then someone at the division would notify DEA of
535:11 the suspicious order.

535:12 Q. So -- so would that potentially come
535:13 straight from a distribution center, not necessarily
535:14 through corporate?

535:15 A. That would come straight from the
535:16 distribution center.

535:17 Q. Have you ever heard of the DEA's Internet
535:18 pharmacy initiative?

535:19 A. Yes.

535:20 Q. Okay. What is it?

535:21 A. It's guidance that they issued in relation
535:22 to identifying potential suspicious orders through
535:23 Internet pharmacies.

535:24 Q. And who asked you to undertake the
535:25 Internet pharmacy initiative?

536:1 A. My boss, Steve Reardon.

536:2 Q. What was Mr. Reardon's role at Cardinal
536:3 Health?

536:4 A. At the time, I believe he was director of
536:5 quality and regulatory affairs.

536:6 Q. And we're in kind of the 2005-2006 time
536:7 frame, right?

536:8 A. Yes.

536:9 Q. Do you know Mr. Reardon's background
536:10 before he came to work at Cardinal Health as director
536:11 of quality and regulatory affairs?

536:12 A. I actually believe he was a police
536:13 officer.

536:14 Q. Do you know where he was a police officer?

536:15 A. I believe the Boston area.

536:16 Q. As part of the Internet pharmacy
536:17 initiative, what -- what did you do to help comply
536:18 with the Internet pharmacy initiative?

536:19 A. My role was, in addition to the
536:20 distribution centers submitting the report to DEA
536:21 every month, I would also review the reports, and I
536:22 would identify pharmacies that would need further
536:23 investigation, and I would conduct an investigation
536:24 and a site visit. And based on those findings, I
536:25 would recommend -- make a recommendation to
537:1 discontinue shipment of controlled substances to
537:2 those pharmacies and report those pharmacies to the
537:3 DEA.
537:4 Q. I'd like to direct your attention to an
537:5 exhibit you looked at earlier; it should be right in
537:6 front of you. It's marked as Brantley Exhibit 4.
537:7 Do you have that one?
537:8 A. Yes.
537:9 Q. And this was a settlement release
537:10 agreement and administrative memorandum of agreement.
537:11 Do you remember discussing that document
537:12 earlier today?
537:13 A. Yes.
537:14 Q. Is it true that on the first page of
537:15 Exhibit 4, it states that Cardinal has 27 separate
537:16 distribution facilities?
537:17 A. Yes.
537:18 Q. And are the distribution facilities --
537:19 generally; I know there's some unique ones -- but
537:20 generally speaking, do the distribution facilities
537:21 cover particular geographic areas?
537:22 A. Yes.
537:23 Q. To your knowledge, was there ever a
537:24 suspension order of any of the facilities that
537:25 shipped to the Northern Ohio area?
538:1 A. No.
538:2 Q. A little bit more on Exhibit 4. You spent
538:3 a fair bit of time talking about allegations that the
538:4 DEA -- the DEA had made.
538:5 To your knowledge, did DEA ever prove its
538:6 allegations?
538:7 A. No.
538:8 Q. In fact, there -- there was a piece that

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538:9 was skipped over earlier when you were discussing
 538:10 this document with counsel. On page 2, there's a
 538:11 section that counsel for the Plaintiffs didn't read
 538:12 that begins, "No admission or concession."

538:13 Do you see that section?

538:14 A. Yes.

538:15 Q. And does it say: "This agreement is
 538:16 neither an admission by Cardinal of liability or of
 538:17 the veracity of any allegation made by DEA in the
 538:18 orders to show cause."

538:19 See that?

538:20 A. Yes.

538:21 Q. Did I read it correctly?

538:22 A. Yes.

538:23 Q. Is that consistent with your understanding
 538:24 of this document?

538:25 A. Yes.

542:14 - 542:16

Brantley, Eric 11-27-2018 (00:00:09)

EB04.68

542:14 Q. Is it the case that every entity that
 542:15 receives any controlled substance from Cardinal
 542:16 Health has to have a DEA license?

542:18 - 542:22

Brantley, Eric 11-27-2018 (00:00:10)

EB04.69

542:18 THE WITNESS: Yes.

542:19 BY MR. PYSER:

542:20 Q. Does Cardinal Health ship to anyone who
 542:21 does not have a DEA license?

542:22 A. Not a controlled substance, no.

543:1 - 543:3

Brantley, Eric 11-27-2018 (00:00:05)

EB04.70

543:1 To your knowledge, has Cardinal Health
 543:2 ever distributed to a drug cartel?

543:3 A. No.

544:12 - 544:21

Brantley, Eric 11-27-2018 (00:00:26)

EB04.71

544:12 Q. Were there times when you reported a
 544:13 customer to DEA because you believed they might be
 544:14 involved in Internet pharmacy activity?

544:15 A. Yes.

544:16 Q. And what did Cardinal Health do when it
 544:17 came to believe that a customer might be involved in
 544:18 Internet activity?

544:19 A. We discontinued shipments of controlled

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546:13 - 546:20	<p>544:20 substances to that customer and reported that 544:21 customer to the DEA.</p> <p>Brantley, Eric 11-27-2018 (00:00:19)</p> <p>546:13 Q. Were there ever times when you personally 546:14 had to call a customer and tell them they would no 546:15 longer be eligible to receive controlled substances 546:16 from Cardinal Health?</p> <p>546:17 A. Yes.</p> <p>546:18 Q. To the extent that you can remember now, 546:19 ten years later, can you describe a little bit about 546:20 those phone calls?</p>	EB04.72
546:23 - 547:4	<p>Brantley, Eric 11-27-2018 (00:00:15)</p> <p>546:23 THE WITNESS: I don't remember the exact 546:24 details, but they would be -- I would call the 546:25 customer and let them know that they were being 547:1 shut off from receiving controlled substances. 547:2 BY MR. PYSER:</p> <p>547:3 Q. And when you made those calls, were the 547:4 pharmacists sometimes angry with you?</p>	EB04.73
547:6 - 547:8	<p>Brantley, Eric 11-27-2018 (00:00:04)</p> <p>547:6 THE WITNESS: Yes.</p> <p>547:7 BY MR. PYSER:</p> <p>547:8 Q. Why? Did they tell you?</p>	EB04.74
547:11 - 548:11	<p>Brantley, Eric 11-27-2018 (00:01:08)</p> <p>547:11 THE WITNESS: Because they would not be 547:12 receiving controlled substances from Cardinal 547:13 Health any longer.</p> <p>547:14 BY MR. PYSER:</p> <p>547:15 Q. And these pharmacies that we're talking 547:16 about that Cardinal Health was refusing to ship to, 547:17 do you know, typically, did they still have a valid 547:18 DEA license?</p> <p>547:19 A. Yes.</p> <p>547:20 Q. In addition to your work in 547:21 anti-diversion, did you also do training of other 547:22 Cardinal Health employees?</p> <p>547:23 A. Yes.</p> <p>547:24 Q. Can you tell me a little bit about what 547:25 types of training you did?</p> <p>548:1 A. I did training with members of senior</p>	EB04.75

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	548:2 management, and I did training with the sales force, 548:3 and I did training with members of my team. 548:4 Q. And just generally speaking, what was the 548:5 subject matter that you would train other people at 548:6 Cardinal Health on? 548:7 A. On our Internet or anti-diversion policy. 548:8 Q. And were those policies, talking about the 548:9 2005, '6, '7 time period, were those policies during 548:10 that time period consistent with what you understood 548:11 DEA wanted?	
548:14 - 548:23	Brantley, Eric 11-27-2018 (00:00:29) 548:14 THE WITNESS: Yes. 548:15 BY MR. PYSER: 548:16 Q. Were the policies that Cardinal Health had 548:17 back in 2006 consistent with the guidance that you 548:18 received from DEA? 548:19 A. Yes. 548:20 Q. How did you come to the conclusion that 548:21 Cardinal's policies back in this time period were 548:22 consistent with the guidance you received from DEA? 548:23 A. Kyle Wright with DEA told us.	EB04.76
549:1 - 549:3	Brantley, Eric 11-27-2018 (00:00:04) 549:1 BY MR. PYSER: 549:2 Q. What did Mr. Wright tell you about 549:3 Cardinal Health's policies?	EB04.79
549:10 - 549:12	Brantley, Eric 11-27-2018 (00:00:11) 549:10 A. He said that we're doing the right things, 549:11 and we're going in the right directions, and that we 549:12 had a -- a good program.	EB04.80
549:15 - 549:21	Brantley, Eric 11-27-2018 (00:00:17) 549:15 BY MR. PYSER: 549:16 Q. Did you have a -- a strong working 549:17 relationship with Mr. Wright in DEA? 549:18 A. Yes. 549:19 Q. Did Kyle Wright from DEA ever tell you 549:20 that Cardinal Health's anti-diversion program was 549:21 deficient in any way?	EB04.82
550:3 - 550:4	Brantley, Eric 11-27-2018 (00:00:01) 550:3 THE WITNESS: No. 550:4 BY MR. PYSER:	EB04.84

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550:7 - 550:14	Brantley, Eric 11-27-2018 (00:00:22) 550:7 Did you receive any suggestions or 550:8 critiques from DEA, from Mr. Wright in particular, on 550:9 Cardinal Health's system? 550:10 A. No. 550:11 Q. If back in 2006 or '7, Mr. Wright or 550:12 someone else at DEA had offered suggestions to 550:13 Cardinal Health on its suspicious-order monitoring or 550:14 reporting system, what would you have done?	EB04.77
550:21 - 550:22	Brantley, Eric 11-27-2018 (00:00:02) 550:21 A. We would have implemented those 550:22 suggestions.	EB04.78
550:23 - 551:11	Brantley, Eric 11-27-2018 (00:00:33) 550:23 Q. I'm showing you a document entitled 550:24 Exhibit 35. 550:25 (Cardinal-Brantley 35 was marked for 551:1 identification.) 551:2 BY MR. PYSER: 551:3 Q. Do you recognize this document? 551:4 A. Yes. 551:5 Q. What is it? 551:6 A. It's an e-mail from my boss, Steve 551:7 Reardon, of a summary of a conversation that we had 551:8 with Kyle Wright. 551:9 Q. Okay. And the -- the time period of that 551:10 call was on April 2007; is that right? 551:11 A. Yes.	EB04.95
551:18 - 552:8	Brantley, Eric 11-27-2018 (00:00:30) 551:18 BY MR. PYSER: 551:19 Q. Direct your attention to the sentence that 551:20 begins: "The purpose of the call was to confirm we 551:21 have the appropriate program and processes in place. 551:22 Ask if there is anything else we should be doing, 551:23 reiterate our willingness to work with the agency on 551:24 this issue, and to extend an offer to meet with the 551:25 agency to further discuss the details of our 552:1 program." 552:2 Do you see that language? 552:3 A. Yes. 552:4 Q. Based on your recollection, is that an	EB04.81

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552:12 - 552:18	<p>552:5 accurate description of the call?</p> <p>552:6 A. Yes.</p> <p>552:7 Q. If you look at the first bullet point, can</p> <p>552:8 you read that out loud?</p> <p>Brantley, Eric 11-27-2018 (00:00:11)</p> <p>552:12 THE WITNESS: He thinks we are doing the</p> <p>552:13 right things, heading in the right direction.</p> <p>552:14 BY MR. PYSER:</p> <p>552:15 Q. And that statement, that was described by</p> <p>552:16 Mr. Reardon as the key feedback from Kyle.</p> <p>552:17 Do you see that?</p>	EB04.83
552:22 - 553:6	<p>552:18 A. Yes.</p> <p>Brantley, Eric 11-27-2018 (00:00:25)</p> <p>552:22 BY MR. PYSER:</p> <p>552:23 Q. And did Cardinal Health incorporate this</p> <p>552:24 information that it learned from Mr. Wright into its</p> <p>552:25 anti-diversion programs?</p> <p>553:1 A. Yes.</p> <p>553:2 Q. What impact did those statements have on</p> <p>553:3 you?</p> <p>553:4 A. They made me feel that we had a good</p> <p>553:5 program in place, and as he said, we were heading in</p> <p>553:6 the right direction. We were doing the right thing.</p>	EB04.85
553:10 - 553:18	<p>Brantley, Eric 11-27-2018 (00:00:14)</p> <p>553:10 BY MR. PYSER:</p> <p>553:11 Q. And the next bullet is, quote: "Stated</p> <p>553:12 that Eric, who manages their program centrally in</p> <p>553:13 Dublin, has established an excellent working</p> <p>553:14 relationship with his office."</p> <p>553:15 Do you see that statement?</p> <p>553:16 A. Yes.</p> <p>553:17 Q. Do you agree with that statement?</p> <p>553:18 A. Yes.</p>	EB04.86
553:19 - 554:2	<p>Brantley, Eric 11-27-2018 (00:00:30)</p> <p>553:19 Q. If you go to the next page in Exhibit -- I</p> <p>553:20 believe we're -- we're at 35 -- is there a letter</p> <p>553:21 attached?</p> <p>553:22 A. Yes.</p> <p>553:23 Q. Is it a letter you wrote?</p> <p>553:24 A. Yes.</p>	EB04.98

554:3 - 556:13

553:25 Q. And who did you send the letter to?

554:1 A. Jan Hamilton, with the DEA in the Miami
554:2 field division in Miami, Florida.

Brantley, Eric 11-27-2018 (00:02:51)

EB04.97

554:3 Q. And there's some discussion in the letter

554:4 about information that had been provided back and
554:5 forth with DEA, in the first two paragraphs.

554:6 Do you see those paragraphs?

554:7 A. Yes.

554:8 Q. And I want to direct your attention to the

554:9 third paragraph, about ten lines down. It begins:

554:10 "As mentioned above."

554:11 You see that language?

554:12 A. Yes.

554:13 Q. And it reads: "As mentioned above, all of

554:14 the Internet pharmacy accounts listed below have been
554:15 terminated as customers for controlled substances.

554:16 In addition, prior to this action on our part, DEA

554:17 had been notified by us of excessive purchases of

554:18 controlled substances via ingredient limit reports

554:19 for these accounts in advance of our decision.

554:20 Rather than wait upon a response from DEA, Cardinal

554:21 Health initiated the following actions as described

554:22 below. That being the case, we believe that our

554:23 program is in accordance with DEA's expectations, and

554:24 we continue to improve it and add resources to it.

554:25 For example, we added an additional head count in

555:1 February 2007."

555:2 Did I read that correctly?

555:3 A. Yes.

555:4 Q. Did you personally agree with the

555:5 conclusion in this letter that Cardinal's program was

555:6 in accordance with DEA's expectations?

555:7 A. Yes.

555:8 (Cardinal-Brantley 36 was marked for

555:9 identification.)

555:10 BY MR. PYSER:

555:11 Q. Showing you a document that's been marked

555:12 as Exhibit 36.

555:13 What is Exhibit 36?

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555:14 A. This is an e-mail from -- from Kyle Wright
 555:15 that he was sent to wholesale with the -- listed
 555:16 pharmacies that wholesalers had -- had discontinued
 555:17 business with and notified DEA of that action.

555:18 Q. Okay. Did you receive e-mails like this
 555:19 from Mr. Wright?

555:20 A. Yes.

555:21 Q. What would you typically do when you
 555:22 received an e-mail like this from Mr. Wright, letting
 555:23 you know that a wholesaler -- not necessarily
 555:24 Cardinal Health, but some wholesaler -- had
 555:25 discontinued distribution of controlled substances to
 556:1 particular pharmacies or hospitals?

556:2 A. I would review the list to see if there
 556:3 were any current Cardinal Health customers, and if
 556:4 so, I would look into those customers; I would
 556:5 conduct an investigation of those customers if they
 556:6 were on the list.

556:7 Q. Okay. And were there times when a
 556:8 customer appeared on the list and Cardinal Health
 556:9 subsequently refused to do business with them?

556:10 A. Yes.

556:11 Q. And the pharmacies on this list, are they
 556:12 pharmacies that necessarily lost their DEA license?

556:13 A. No.

556:20 - 557:10

Brantley, Eric 11-27-2018 (00:00:41)

EB04.87

556:20 BY MR. PYSER:

556:21 Q. Do you know whether or not the pharmacies
 556:22 that are on this list as having been cut off by a
 556:23 distributor still had their DEA license or not?

556:24 A. Yes.

556:25 Q. Did they have DEA licenses, typically,
 557:1 still?

557:2 A. Yes.

557:3 Q. Did there come a time when -- well, first
 557:4 of all, let me ask: Did you receive e-mails like
 557:5 this periodically from Mr. Wright?

557:6 A. Yes.

557:7 Q. Did there come a time when DEA and Kyle
 557:8 Wright stopped sending e-mails like the one we just

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557:17 - 557:20	<p>557:9 saw?</p> <p>557:10 A. Yes.</p> <p>Brantley, Eric 11-27-2018 (00:00:06)</p> <p>557:17 Q. But to your knowledge, DEA just stopped</p> <p>557:18 providing this information to distributors.</p> <p>557:19 You know that, right?</p>	EB04.88
557:24 - 559:15	<p>557:20 A. Yes.</p> <p>Brantley, Eric 11-27-2018 (00:02:07)</p> <p>557:24 BY MR. PYSER:</p> <p>557:25 Q. Did you continue to receive this</p> <p>558:1 information from DEA, or did it stop at some point?</p> <p>558:2 A. It stopped at some point.</p> <p>558:3 Q. Around 2010, did you begin work at a</p> <p>558:4 Cardinal Health facility near Atlanta?</p> <p>558:5 A. Yes. 2009, I started work at the</p> <p>558:6 McDonough, Georgia, distribution center.</p> <p>558:7 Q. And in your role at the McDonough,</p> <p>558:8 Georgia, distribution center, did you have</p> <p>558:9 responsibilities related to the physical security of</p> <p>558:10 medications that were at that facility?</p> <p>558:11 A. Yes. I was a compliance officer, so my</p> <p>558:12 role was to conduct audits and assure compliance with</p> <p>558:13 DEA, FDA, PDMA, OSHA, DOT regulations.</p> <p>558:14 Q. Can you in your experience compare the</p> <p>558:15 specificity of regulations for DEA guidance on</p> <p>558:16 physical security of handling medications versus</p> <p>558:17 anti-diversion?</p> <p>558:18 A. Yes. So the anti-diversion regulation is</p> <p>558:19 21 CFR 1301.74(b), which states that the registrant</p> <p>558:20 shall have a system in place to identify suspicious</p> <p>558:21 orders and report those orders. And it defines those</p> <p>558:22 orders as orders of unusual size, frequency, or that</p> <p>558:23 deviate substantially from a normal pattern.</p> <p>558:24 As far as the regulations around physical</p> <p>558:25 security, they were very detailed. They went into</p> <p>559:1 the thickness of the vault walls, the type of</p> <p>559:2 security system, the monitoring, the -- the testing,</p> <p>559:3 the cage itself, the space between the cage and the</p> <p>559:4 locking mechanism. And it spelled out in detail a</p> <p>559:5 thorough list of things to follow.</p>	EB04.89

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559:6 Q. In your time at McDonough, and generally

559:7 at Cardinal Health, were distribution centers

559:8 regularly inspected by DEA?

559:9 A. Yes. There was a cyclical inspection

559:10 generally every two to three years or so.

559:11 Q. In your experience at Cardinal Health for

559:12 over ten years, did you ever see Cardinal Health ship

559:13 an order that you believed would be diverted?

559:14 A. No.

559:15 MR. PYSER: No further questions.

Plaintiffs Affirmative Designations = 00:22:25

Defense Counter Designations = 00:37:01

Defense Completeness Counters = 00:01:17

Total Time = 01:00:43